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Chairman: Mr. Majoor ..... (Netherlands)
later: Mr. Peralta (Vice-Chairman) ..... (Paraguay)
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The meeting was called to order at 10.05 a.m.

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/HRC/9/17; A/63/278 and A/63/289)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

1. **Mr. Sengupta** (Chairperson-Rapporteur of the Working Group on the Right to Development), introducing the report of the Working Group on the Right to Development on its ninth session (A/HRC/9/17), said that the high-level task force on the implementation of the right to development had been established in 2004 to examine the performance of different international development partnerships. In 2006, the Working Group had adopted a set of criteria by consensus, and its operationalization for the periodic evaluation of global development partnerships, as identified in Millennium Development Goal 8, had proved to be an excellent entry point for mainstreaming the right to development. The road map presented in the report of the Working Group on its eighth session (A/HRC/4/47) included three phases: progressive development and refinement of the right-to-development criteria, their application to a wider range of development partnerships and their extension to all Goal 8 targets and to all regions. In that report, the Working Group also advocated the elaboration of a comprehensive and coherent set of standards to assess the implementation of the right to development, which could evolve into an international legal standard of a binding nature, through a collaborative process of engagement.

2. In 2007, during phase I of the road map, the task force continued the dialogue with partnership secretariats, undertook technical missions and compiled its findings, while progressively developing the criteria, based on the different targets of Millennium Development Goal 8. He welcomed yet another consensus achieved by the Working Group in 2008, permitting further clarification of the road map. In that regard, the decision by the Human Rights Council, at its September 2008 session, to raise the right to development to the same level as all other human rights and fundamental freedoms clearly highlighted the importance it attached to the Working Group's efforts.

3. He drew attention to the conclusions and recommendations of the Working Group contained in its report on its ninth session (A/HRC/9/17), and described their contents. Regarding phase II of the road map, the task force was invited to continue the dialogue with its partners, to give priority to the issue of essential medicines in developing countries, focusing on health systems and technology transfer, and to invite the States members of the Common Market of the South (MERCOSUR) to consider entering into a dialogue with the task force on national measures undertaken to promote the right to development.

4. During phase III, the task force should study the thematic issues of debt relief and technology transfer, and engage in dialogue with the institutions responsible for the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative and examine the Clean Development Mechanism and the Development Agenda of the World Intellectual Property Organization. The task force should also present a revised list of right-to-development criteria along with corresponding operational sub-criteria and outline suggestions for further work, including aspects of international cooperation not covered until then, for the consideration of the Working Group.

5. The Human Rights Council had extended the mandate of the Working Group and the high-level task force until 2010, which would enable them to implement the challenging work programme already described — with a view to encouraging partner institutions to take the right to development more fully into account — within the allotted time frame, while refining and developing the criteria in a manner that benefited all concerned. To that end, time, resources, political commitment and substantive input by Member States, experts and institutions would be required. Nevertheless, the right to development extended beyond Millennium Development Goal 8 and criteria for evaluation should be developed for areas that were still unresolved, using lessons learned in order to build consensus. The fragile gains made over the past few years in transforming the right to development from rhetoric to reality would be for naught if there was no action to undertake a holistic analysis of political and

operational realities and to mobilize stakeholder support, particularly at the political level.

6. **Mr. García Collado** (Cuba) said that he would like to know what opportunities were available to the Working Group on the Right to Development by virtue of its mandate, and what the Working Group's position was on drafting a future convention on that right. More information would be welcome on the impact such an instrument would have on the exercise of human rights in the countries of the South.

7. **Mr. Saeed** (Sudan) welcomed the fact that the right to development was being considered on an equal footing with civil and political rights and expressed support for extending the Working Group's mandate. Nevertheless, he stressed the need to achieve tangible results, and wondered how the Working Group intended to assist developing countries in the areas of debt relief and technology transfer, both of which could provide the means to significantly strengthen the right to development in those countries. It would also be useful to know how Member States should go about demonstrating their political will and support for the Working Group.

8. **Mr. Sengupta** (Chairperson-Rapporteur of the Working Group on the Right to Development), while acknowledging that all human rights must be enshrined in legally binding instruments, explained that the elaboration of such instruments was the final link in a chain, the first three links being comprehensive definition of the rights in question, establishment of criteria and methods to assess the extent to which those rights were respected, and putting those criteria and methods to the test. With regard to the right to development, the Working Group would strive to refine and test the relevant criteria over the next two years, in cooperation with various partners and universities; the Chairman-Rapporteur was convinced that the proposed indicators would meet with the approval of the international community by the end of that period. Only at that point could a consensus on the elaboration of an international convention on the right to development be considered. In that connection, the Chairman-Rapporteur highlighted that it was crucial for States to demonstrate political will and a spirit of close cooperation throughout the process.

9. **Ms. McGeeney** (United States of America) said that the definition of the right to development adopted by her country placed greater emphasis on the individual and his or her other fundamental rights. It was counterproductive to consider developing a legally binding instrument on the right to development, given the diverging views on the matter within the international community; rather, the Working Group and the task force should consider concrete measures to promote economic and social development.

10. **Ms. Farani Azevedo** (Brazil), speaking on behalf of MERCOSUR, noted that MERCOSUR had neither confirmed its cooperation with the high-level task force nor reached an agreement on the scope or modalities of such cooperation. Nevertheless, she hoped that the dissemination of best practices adopted by MERCOSUR member States in the area of human rights would contribute usefully to the work of the task force. MERCOSUR agreed with the United States delegation on the importance of linking the right to development to other human rights.

11. **Mr. Sengupta** (Chairman-Rapporteur of the Working Group on the Right to Development) welcomed the spirit of partnership expressed by the representative of Brazil on behalf of MERCOSUR. The dialogue she was calling for would provide an opportunity to review working methods and assess their efficiency. In response to the questions posed by the United States delegation, he reiterated that the question of a potential legally binding instrument did not have to be addressed just yet. For the time being, the crucial importance of international cooperation and assistance to developing countries must be stressed. He hoped that the United States Government would appreciate the need for the international community to consider its obligations in that regard from a human rights standpoint. When the concept of the right to development had first been mentioned in 1998, the world had been a very different place, and it continued to change. The right to development would ultimately have to be enshrined in an international instrument, just as other human rights had been. He hoped that the draft resolution on the matter would be adopted by consensus during the current session, and encouraged delegations to pursue the dialogue they had begun and set aside for the moment the question of whether a legally binding instrument was relevant.

12. **Mr. De Schutter** (Special Rapporteur on the right to food), introducing his report on the right to food (A/63/278), gave a brief account of the situation in which he had been working since assuming his mandate on 1 May 2008. Aware of the terrible

consequences of the world food crisis for the poorest populations, he was continually urging international agencies and national authorities to be guided in their actions by the human right of all to adequate food.

13. On the international markets the crisis seemed to have passed its peak, but it would be a mistake to relax one's vigilance. Prices were likely to remain high for at least 10 years, as the structural causes of the increases had not gone away. Growth in the agricultural sector was still sluggish, consumption patterns for food and fuel had scarcely evolved, and on international markets price stabilization mechanisms were sorely lacking. Food prices on national markets were still extremely high, and did not reflect the relative fall recorded internationally. Moreover, the brutal increase in prices in 2007-2008 had severely affected the poorest households, which had switched to poorer diets, cut back on schooling and on health care and sold productive assets such as tools and land.

14. Now that the right to food had been recognized as one of the most fundamental human rights, it should be possible to combat inequalities in that area more effectively. To that end, the ability of countries and of households to respond to the crisis must be improved, in a spirit of respect for human rights. It was not enough merely to increase the volume of production; the challenge was to ensure that increased production benefited the primary victims of hunger, and to prevent at all costs an agricultural divide which would further marginalize small farmers. It was also necessary to bridge the gap between farm-gate prices and prices paid by the consumer, and to curb the volatility of prices, including through State intervention and by storing food reserves. Lastly, States should institutionalize the right to food and strengthen the chain of government responsibility in that area. In the follow-up report which he would be submitting in September 2010, he would assess how his recommendations had been implemented at both national and international levels.

15. In the next two years, he would focus on creating an international environment which would enable States to develop strategies to realize the right to food, by giving priority to five major areas. First, food aid as presently conceived was not always compatible with long-term food security in the recipient countries, being too often unpredictable and anti-cyclical. Moreover, about one third of food aid was conditional, and remained in donor countries without ever reaching the intended beneficiaries. Secondly, trade in agricultural commodities had an impact on the right to food. Whatever the advantages of trade liberalization within the framework of the World Trade Organization, the problem of hunger sprang not from low levels of production but rather from inadequate purchasing power. States must not sacrifice the right to food on the altar of free trade. They must protect their producers from the risks of food dumping, including by guaranteeing access to markets. Thirdly, extending intellectual property rights to agriculture increased the monopoly power of big business and the dependency of small producers. States needed assistance in ensuring that strengthened intellectual property rights were not incompatible with their obligation to protect the right to food. Fourth, the activities of the agro-industrial sector must be seen from the perspective of the right to food, because that sector, increasingly concentrated and powerful, was imposing its terms on small producers. Those points should be discussed with all interested parties and best practices for securing the right to adequate food should be identified. Fifth, as climate change had an impact on the right to food, human rights-oriented mitigation strategies must be encouraged. Agriculture had a significant effect on climate change, which must be mitigated. He intended to draw up a list of best practices in that area.

16. Those five key issues illustrated the interdependence of national initiatives and issues of concern to the international community. Those issues were now being widely debated, although unfortunately the debates did not adequately reflect the fact that the right to food was a fundamental right enshrined in several specialized international legal instruments. National authorities would do well to look to the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*, adopted in 2004 by the States members of the Council of the Food and Agriculture Organization of the United Nations (FAO).

17. In conclusion, he said that the latest global crises had demonstrated the limitations of the current system of agricultural production and distribution, and of solutions based on private sector capacities. He was determined to work towards achieving durable solutions within the framework of a new system which would guarantee access to adequate food for the poorest people.

18. **Mr. Rastam** (Malaysia) said that his country provided financial assistance for those without the means to buy healthy and nutritious food, and that it regulated the prices of certain basic foodstuffs. Malaysia had reformed agriculture so as to improve productivity and rationalize land use. As a net importer, it was very worried about the all-enveloping nature of the current financial crisis and the increased prices of agricultural products. He wondered whether it would be feasible to guarantee access to food for poor people by regulating the prices of certain foods, such as cereals, within each producing country or at the international level. As the Special Rapporteur had pointed out, it was unthinkable to carry on as if nothing had happened. From the human rights perspective, he wondered whether the current practice of international deregulation could be maintained in the long term, given its impact on the realization of the right to food. Could the Special Rapporteur give examples of countries in which international pressure to liberalize land ownership laws had created opportunities for local producers, or where land intended for producing the country's food was now used by foreign companies to produce biofuels?

19. **Mr. Gonnet** (France), speaking on behalf of the European Union, said that the complex nature of the food crisis was a reminder of the interdependence and universality of the most fundamental human right. He was anxious to know how to approach the impact of the food crisis on human rights. Noting that women were becoming increasingly vulnerable, in spite of their active role in food production, he asked the Special Rapporteur for more detailed information on steps which national and international institutions could take to secure women's right to adequate food. He was convinced that responsible and efficient governance at the national level and full enjoyment of all civil, political, economic, social and cultural rights were essential to lasting food security. Could the Special Rapporteur give examples of best national practices, in terms of governance and political will, that were specifically designed to meet the demands of food security?

20. **Mr. Bibilonia Ballate** (Cuba) asked the Special Rapporteur to explain his position on trade liberalization and on the need to conclude the Doha Round of negotiations and broaden their scope, and to give examples of the adverse impact of protecting intellectual property rights on the full realization of the right to food of children, women and the elderly. He would also like to know what activities the Special Rapporteur was planning, especially in connection with the dialogue with the international financial institutions and other international organizations.

21. **Ms. Zhang** Dan (China), noting that the Special Rapporteur had mentioned the need to create an international environment favourable to food security, emphasized that trade liberalization sometimes prevented developing countries from taking the necessary steps in that regard. What specific proposals could the Special Rapporteur make to create an international environment which would enable those countries to invest more in agriculture, increase its productivity and ultimately improve their food security?

22. **Mr. Casal** (Bolivarian Republic of Venezuela) said that his country had adopted five laws in July 2008 to guarantee the right to food of the entire population. By bringing together the producers, distributors and consumers of foodstuffs, those laws placed food sovereignty, an inalienable right of the nation, on an equal footing with food security and other rights. The Bolivarian Republic of Venezuela had also concluded a treaty on achieving food security and sovereignty within the framework of the Bolivarian Alternative for the Americas as well as cooperation agreements with a number of neighbouring countries.

23. The Special Rapporteur had emphasized that the exercise of the right to food took priority over financial interests. He wondered whether, as well as cooperating with the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, the Special Rapporteur would be cooperating with other mandate holders whose mandates touched upon the right to solidarity and on human rights and extreme poverty. He also sought the Special Rapporteur's views on food sovereignty, defined as the inalienable right of countries to define and develop agricultural and food policies designed for their particular circumstances, which was a sine qua non of food security.

24. **Ms. McGeeney** (United States of America) agreed with the Special Rapporteur that much more needed to be done at the national and international levels to assist the millions of people around the world suffering from hunger. However, the report (A/63/278) contained erroneous legal assertions and proposals

which, if implemented, would only exacerbate food insecurity. In particular, her delegation took issue with his assertion that States had a legal rather than a moral obligation to end hunger in the world; nor did it agree that States had an international legal obligation to adopt the Guidelines referred to in the report. It was fine for the Special Rapporteur to state his policy preferences but unfair to present them as obligations incumbent on States.

25. Her delegation also disagreed that food aid violated the right to food and that there was a need to switch from in kind aid to cash transfers. The current challenge was not the aid source, but rather the presence of lingering complex emergencies that absorbed the limited volume of food aid available. In many situations, the provision of aid in kind was critical to save lives, and its withdrawal would have disastrous consequences.

26. Nor was it possible to claim that the free trade would threaten domestic agricultural producers. The successful outcome of an ambitious Doha Round would create new trade flows, lift millions of people from poverty, promote consumption by reducing tariff barriers and help farmers in developing countries.

27. **Mr. De Schutter** (Special Rapporteur on the right to food), responding to the representative of Malaysia, said that the problem was not so much the recent surge in prices, but rather their extreme volatility, which would continue over the next few years and must be controlled. States could reconstitute national and regional food reserves, which would enable them to intervene in markets by purchasing crops, thereby guaranteeing producers a stable income, and putting affordable foodstuffs on the market to alleviate the impact of soaring prices on the population.

28. The re-establishment of national marketing boards and food reserves that had often been dismantled in the 1980s and 1990s as a result of structural adjustment programmes imposed on developing countries could prove effective with proper management. At the international level, those systems should form the basis for devising solutions that could guarantee a stable supply to food importers and a stable income to food exporters. The food crisis had demonstrated the need for both importing and exporting countries to favour enhanced cooperation and coordination over beggar-thy-neighbour policies. He thus proposed a virtual global food reserve system for which he had requested the Human Rights Council to undertake a feasibility study. Under the system, States would commit to putting a certain volume of food on the market, at predefined prices, thus providing opportunities to exporters while avoiding soaring prices of the kind experienced in Malaysia and the Philippines.

29. With regard to the production of agro-fuels, particularly in the European Union and the United States, he wished to refer the Committee to the report he had presented to the Human Rights Council in September 2008 (A/HRC/9/23) in which he had called for the adoption of international guidelines.

30. Responding to the representative of France, he said that the international community was currently considering incorporating a human rights perspective in measures to combat the global food crisis, including through the high-level task force on the global food security crisis, which had prepared an excellent comprehensive framework for action. In addition to cooperating with the high-level task force, he was undertaking different, complementary work, including the monitoring of Government action in respect of the right to land and women's rights or the obligation of States to implement national strategies to promote the right to food. Making legal systems less discriminatory towards women was one of the strategies for combating world hunger; he had submitted a report to the Human Rights Council on all those issues.

31. With regard to sound national practices to improve food security, he drew attention to the Voluntary Guidelines of the Food and Agricultural Organization. Although not legally binding, common sense would dictate that they would be adhered to, as in Brazil, Bolivia and Guatemala and elsewhere.

32. Responding to the remarks made by the representative of Cuba, he agreed with the United States delegation that a successful conclusion of the Doha Round could help contribute to food security. However, it would all depend on the outcome of the negotiations: trade liberalization was not a sacred talisman and could just as easily help or hinder the realization of the right to food. The report he would be presenting to the Human Rights Council in March 2009 on his visit to the World Trade Organization (WTO) would examine those issues in greater detail. He would also continue his active cooperation with the

International Monetary Fund (IMF) and the World Bank.

33. The sustainability of the various types of investment in agriculture and food production mentioned by the representative of China depended on the importance they attached to family farms, small producers and water and soil resources. Many studies by the International Fund for Agricultural Development (IFAD) had shown that small-scale farming that was not limited to a single crop could be very productive per hectare and could meet food security needs. For 2 billion people, small-scale farming was the sole source of income; if they could not live off the land, they would be forced to live in urban slums.

34. Responding to the representative of the Bolivarian Republic of Venezuela, he said that he was working closely with the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, who would be involved, for example, in discussions on agro-industries and their contribution to the realization of the right to food in June 2009. He would continue to study the principle of food sovereignty, including its role in the realization of the right to food, since that principle, which was based on the right to development and the right to self-determination, might become a legal reality, even if it was still only a political slogan.

35. Returning to a remark made by the representative of the United States, he said that the distribution of food aid in kind must stop; it was a practice that was completely passé, introduced in the 1960s as a means for developed countries to use up food surpluses. Today, however, it only benefited producers in developed countries.

36. *Mr. Peralta (Paraguay), Vice-Chairman, took the Chair.*

37. **Mr. Vigny** (Switzerland) welcomed the importance that the Special Rapporteur attached to rights related to the use of land and requested additional information on the activities he intended to carry out together with other special rapporteurs. He wondered how the recommendation of the Commission on Legal Empowerment of the Poor to establish inclusive property rights systems would be applied in initiatives involving the right to food and rights related to the use of land. He also wished to know how the Special Rapporteur intended to ensure that, despite the global food crisis, the right to food was respected by States that had already made a commitment in that regard, and whether follow-up criteria had been established.

38. **Ms. Farani Azevedo** (Brazil) said that while the report of the Special Rapporteur (A/63/278) contained several positive elements, it was surprising that it addressed food aid, trade liberalization and intellectual property, among other things, but made no mention of agricultural subsidies, even though they were the most destabilizing practice in food production. She wished to know how the Special Rapporteur reconciled the assertion that biofuel subsidies negatively affected developing countries with an approach that overlooked the effect of subsidies on food production. Brazil had produced biofuels for over 30 years; she wondered why poor countries, in Africa, for instance, did not produce any. She would appreciate clarification of the Special Rapporteur's position, set out in his recommendation to the Human Rights Council, regarding an international consensus on biofuels and wished to know if the same approach could be applied to agricultural subsidies, whose damaging effects had been confirmed by WTO.

39. **Mr. Edwards** (United Kingdom) agreed that a long-term approach should be adopted. Food security was a global problem that required concerted and durable international action. It was incumbent on Member States to ensure the realization of all human rights, including the right to food. In seeking a solution, human rights should be emphasized over the technical aspects of production and distribution. His Government was particularly concerned about the situation in Zimbabwe, where 5 million people would require food aid before the end of the year. What measures had the Special Rapporteur taken to inform the Zimbabwean Government of his position on the matter?

40. **Ms. McBreen** (Ireland) said that her Government was fully committed to combating the root causes of hunger; in 2006, it had created a special team on hunger, comprised of international experts, which had presented its recommendations to the Secretary-General at the High-level Event on the Millennium Development Goals. Her delegation would appreciate a further briefing on the importance of the legal empowerment of the poor in the context of combating food insecurity and poverty in the world. What was the Special Rapporteur's opinion of the recommendations

of the Commission on Legal Empowerment of the Poor and of their complementarity with his work?

41. **Mr. Zeidan** (Observer for Palestine) said that 1.5 million civilians were currently confined in the open-air prison that was the occupied Gaza Strip, where they were refused the most basic rights. Food-related statistics raised significant concerns, as more than 80 per cent of the population was dependent on food aid. The wall that Israel was building in the West Bank cut off Palestinians' access to their land and forced them to buy costly agricultural products sold by the Israelis. Militant Israeli settlers continued to destroy olive tree plantations with complete impunity. How was the right to food aid different from the right to food? He would also like to know when the Office of the Special Rapporteur would again send a representative to the Occupied Palestinian Territory and what measures the Special Rapporteurs planned to take in order to force Israel to fulfil its obligations under the Fourth Geneva Convention and other human rights norms, in particular its obligation to ensure the safety and well-being of the civilian population.

42. **Mr. Nihon** (Belgium), noting the presence of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, wondered what impact national debt could have on the food crisis and, more importantly in the long term, on ensuring the right to food.

43. **Mr. De Schutter** (Special Rapporteur on the right to food), responding to the question posed by the representative of Switzerland, said that he planned to examine the issue of rights relating to the use of land with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people; he would also work with the high-level task force on the global food security crisis established by the Secretary-General. Their activities would focus on two aspects of rights related to the use of land: the protection of land users against eviction without compensation, and agrarian reform, on the basis of the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. As for indicators to monitor the fulfilment of commitments by States, he said he planned to develop a matrix with a view to collecting data on the response of States and the international community to the global food crisis in the months to come. He would then submit a report based on those data to the Human Rights Council at its September 2009 session.

44. With regard to agricultural subsidies, the problem was not that they existed, but that they did not benefit all producers. While they distorted trade by placing farmers in developing countries at an unfair disadvantage, rather than simply eliminate them, it would be more useful to make agricultural support a priority in official development assistance (ODA) and national budgets. Ongoing agricultural reform negotiations at the WTO were likely to result in higher prices for agricultural products on the international markets, which in turn could have harmful consequences. States, especially net food-importing developing countries, must put safety nets in place for their people.

45. Replying to the representative of the United Kingdom, he said that he, too, was concerned about the situation in Zimbabwe and would examine the possibility of conducting a mission in Zimbabwe at a later date, as current conditions made such a mission very difficult.

46. He also shared the concern expressed by the Observer for Palestine and said that he had visited the Occupied Palestinian Territory several times before accepting his current position. He would examine initiatives likely to improve the situation on the ground, which was extremely worrying.

47. The question raised by the representative of Belgium was part of a much larger problem, mainly, how Millennium Development Goal 1 could be achieved with resources that were scarcer than ever. Agricultural investment had been declining since the 1980s, and yet, according to the findings of the World Bank in its 2008 World Development Report, investments in that sector were more useful in fighting poverty than investments in any other sector. Agriculture must therefore remain on the agenda of the international community and of donors and in national budgets.

48. **Mr. Lumina** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and

cultural rights), recalling Human Rights Council resolution 7/4 of 27 March 2008, outlined his general approach to his mandate, based on a resolve to consult and cooperate with the widest possible range of stakeholders; the firm belief that States' human rights obligations had primacy over many other types of international legal obligations and that human rights principles should inform all measures taken by States and international agencies; recognition that the imperative to address the effects of foreign debt and other related financial obligations of States on the enjoyment of human rights arose from the principle of international cooperation which was implicit or clearly enshrined in numerous international human rights instruments; and the belief that while States had the primary responsibility for implementing human rights obligations, other actors, including international development, trade and financial institutions, as well as private corporations, were obliged at the very least to respect human rights.

49. He would focus on three broad, interrelated objectives: (a) to raise awareness about the need to consider foreign debt as a human rights issue and, in that regard, to broaden support for the mandate through ongoing dialogue with all stakeholders (including States that had traditionally not supported the mandate); (b) to undertake a thematic study on foreign debt and human rights in order to identify and clarify some conceptual issues which could also inform the draft general guidelines, which were designed to ensure that compliance with commitments arising from foreign debt did not undermine the capacity of States to fulfil their human rights obligations, in the hope that the results of the thematic study would encourage a policy shift among those States that had traditionally been reluctant to support the mandate; and (c) to identify best practices concerning foreign debt and human rights through the review and development of the draft general guidelines.

50. In seeking to achieve those objectives, he would be building on the contributions made by his predecessors under their respective mandates. He had already embarked on and intended to continue consultations with all stakeholders concerning all aspects of his mandate and, more specifically, the draft general guidelines on foreign debt and human rights. The preliminary consultations on the draft general guidelines had been limited to an expert-level meeting in 2007 in Geneva, but ensuring the fullest possible participation of all stakeholders was vital to guaranteeing their acceptability and effective implementation. Accordingly, he intended, in keeping with his mandate and resources permitting, to broaden the consultations on the guidelines by convening multi-stakeholder regional consultations with a view to enriching the content of the draft general guidelines.

51. A perusal of the resolutions and decisions of the Commission on Human Rights and the Human Rights Council revealed disparities in voting patterns concerning the mandate, with the developed (creditor) countries opposing the mandate on the grounds that the United Nations human rights mechanisms were not the appropriate ones to deal with the issue of foreign debt, and the developing (mainly borrower) countries supporting it by a large majority. That situation had implications for the implementation of the guidelines. Recalling that all members of the Human Rights Council had undertaken to uphold the highest standards in the promotion and protection of human rights and to fully cooperate with the Council, pursuant to General Assembly resolution 60/251, he said that he welcomed the opportunity to discuss concerns regarding the mandate on foreign debt and human rights, and to work with all States in their efforts to uphold their commitments to the Council and its special procedures.

52. Member States had a responsibility to address human rights in a holistic manner, and to discuss the causes of human rights violations and the context within which they occurred. Some countries were spending significant proportions of their resources on debt service, to the detriment of their human rights obligations, while others were spending more each year on debt service than they were on human rights-related public services, such as education and health. Despite debt relief, many countries still had substantial debts which made it difficult for them to realize economic, social and cultural rights and to achieve the Millennium Development Goals. The impact of debt relief was often diluted by other factors related to economic reform policies and the unfavourable global trading environment. Given the impact that debt servicing and other financial obligations could have on the ability of States to allocate appropriate resources for the promotion of human rights, it seemed entirely appropriate for the Human Rights Council to continue addressing the issue. The international financial institutions played a crucial role in dealing with foreign debt, but a human rights-based approach

offered specific value, which placed emphasis on participation, non-discrimination, accountability, universality and indivisibility of human rights. Thus, he would meet with the World Bank and the International Monetary Fund to explore ways in which his mandate could assist the work of those institutions.

53. He wished to emphasize that the principle of international cooperation had always been central to the mission of the United Nations. An international order typified by extreme indebtedness of developing countries and an attendant inability to fulfil their human rights obligations was inconsistent with the ideals embodied in Article 1 of the Charter of the United Nations and article 28 of the Universal Declaration of Human Rights. With the sixtieth anniversary of the Universal Declaration to be commemorated soon, it was crucial now more than ever to acknowledge the vital connection between international cooperation and the realization of human rights, particularly economic, social and cultural rights, and to contribute to the creation of a just global order in which human rights came first. It was his sincere hope that those Member States that had traditionally been reluctant to support consideration of foreign debt as a human rights issue would seize the opportunity proffered by the occasion of the anniversary of the Declaration to commit themselves to cooperating with the United Nations and its human rights bodies, including the special procedures, in seeking a human rights-based solution to the external debt crisis.

54. Recognizing that the implementation of some aspects of his mandate would require the allocation of additional resources, he requested Member States to consider making the necessary extrabudgetary allocations to the Office of the High Commissioner for Human Rights.

55. **Mr. Bibilonia Ballate** (Cuba) said that his country recognized the importance of the report on the effects of foreign debt (A/63/289) but would appreciate more specific information on the effect of the current crisis on domestic and foreign debt, in particular for developing countries, and the source of the more onerous financial commitments as well as their impact on the enjoyment of human rights, especially in the countries of the South.

56. **Ms. McGeeney** (United States of America) said that her country was aware of the difficulties faced by many heavily indebted developing countries. After reading the report of the independent expert, she indeed had a better grasp of the approach and the manner in which he intended to carry out his mandate, but the United States found it difficult to see the linkages he had identified between the debt and the realization of human rights. The United States also recognized the key role of private financial flows in the foreign debt and the primary responsibility of the developing countries for their own development. Her country had made a significant contribution to debt relief under the Heavily Indebted Poor Countries Initiative and other multilateral initiatives, but such programmes undermined efforts to help medium-income countries develop sound debt management policies and make the transition to the private capital markets, which were an important source of financing for development. It was up to countries that borrowed funds for projects to manage their debt. The main problem was that of the viability of the level of indebtedness, and the superficial linkage he seemed to want to establish between debt obligations and the lack of action to promote human rights was a tenuous one, to say the least. Debt payment and the promotion of human rights were not incompatible, and the United States would continue to work with developing countries in their efforts to achieve both their development and human rights goals; such efforts were complementary and not contradictory. The question of viable debt management should be examined by other bodies concerned with financial issues, such as the Second Committee, rather than by bodies that had been created under human rights instruments. The development partners all believed that the promotion of good governance, the elimination of obstacles to private sector development and the establishment of public-private sector partnerships would lead to viable economic growth. Perhaps the independent expert might concentrate on good governance and its impact on economic prospects and the enjoyment of human rights.

57. **Ms. Zhang** Dan (China) asked exactly what the independent expert planned to do in regard to the strengthening of the general guidelines and the broad consultations he envisaged holding in that connection, with a view to reducing the debt of developing countries, especially the most heavily indebted ones. She also wished to know how many stakeholders he planned to consult and what type of collaboration between creditor and debtor countries he envisaged.

58. **Mr. Al-Hassan** (Kuwait) said that since 1962, his country had provided substantial assistance, especially to African countries, through the Kuwait Fund for Arab Economic Development. In 1992, Kuwait had also launched a debt relief initiative for a large number of countries that were grappling with serious difficulties and unable to pay their debt. His delegation wished to know how Member States, working with the United Nations and the independent expert, might assist countries that needed help to eliminate their debt problem.

59. *Mr. Majoor (Netherlands), Chair, resumed the Chair.*

60. **Mr. Lumina** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights), replying to the question by the representative of Cuba, said he hoped that countries that had the necessary resources would not use the crisis as an excuse for not helping the countries that were being crushed by their debt burden. He also hoped that ODA would not dry up. Some of the questions raised by the United States representative were addressed in the draft general guidelines that had been informally submitted unofficially to the Human Rights Council in March 2008. Those draft guidelines dealt with the shared responsibility of creditor and debtor countries for sound debt management and viability, good governance and in particular, transparency in debt management. The current approach was limited, as it placed too much emphasis on the needs of creditor countries and not enough on those of the populations of debtor countries; what was needed was a human rights-based approach rather than one focusing purely on economic issues.

61. He reminded the Chinese delegation that his predecessor had already drafted a number of general guidelines which he was required, under his mandate, to review and develop before reporting to the Human Rights Council in 2010. The guidelines in question were optional and non-binding and were designed to enable creditor and debtor countries to cooperate in managing the process in order to prevent some countries from plunging into a crisis. It would be desirable for all Member States to participate in the effort by supporting the mandate of the independent expert and exchanging views on the content of the guidelines.

62. He informed the delegation of Kuwait that the idea was to bring as many stakeholders as possible into the process of strengthening the general guidelines. One of the best ways to overcome the current crisis would entail inviting all stakeholders, creditor countries and debtor countries to comment on the draft principles.

The meeting rose at 12.20 p.m.